

ESTTA Tracking number: **ESTTA348221**

Filing date: **05/18/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	COLOR IMAGE APPAREL, INC.
Granted to Date of previous extension	05/19/2010
Address	6670 FLOTILLA STREET COMMERCE, CA 90040 UNITED STATES
Attorney information	Richard P. Sybert / Lindsay J. Hulley GORDON & REES LLP 101 West Broadway, Suite 1600 San Diego, CA 92101 UNITED STATES rsybert@gordonrees.com, lhulley@gordonrees.com, mmims@gordonrees.com, bamato@gordonrees.com Phone:619-696-6700

Applicant Information

Application No	77794574	Publication date	01/19/2010
Opposition Filing Date	05/18/2010	Opposition Period Ends	05/19/2010
Applicant	Bella Stella 2635 NE Broadway Portland, OR 97232 UNITED STATES		

Goods/Services Affected by Opposition


Class 035. All goods and services in the class are opposed, namely: Computerized on-line retail store services in the field of children's clothing; Retail clothing boutiques; Retail consignment stores featuring childrens' clothing; Retail consignment stores in the field of children's clothing
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2668441	Application Date	09/04/2001
Registration Date	12/31/2002	Foreign Priority Date	NONE
Word Mark	BELLA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Garments, namely cotton T-shirts and Tops

U.S. Registration No.	3519794	Application Date	03/17/2008
Registration Date	10/21/2008	Foreign Priority Date	NONE
Word Mark	BELLA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2000/01/01 First Use In Commerce: 2000/01/01 Women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, yoga pants, capri pants, shorts, bras, underwear, camisoles, sweatshirts, polo shirts, and jackets		

Attachments	76308113#TMSN.gif (1 page)(bytes) 77423400#TMSN.jpeg (1 page)(bytes) Notice of Opposition - BELLA STELLA.pdf (10 pages)(258736 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Lindsay J. Hulley/
Name	Richard P. Sybert / Lindsay J. Hulley

Date	05/18/2010
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application)	
Serial No. 77/794,574)	
Filed: July 31, 2009)	
Published: January 19, 2010)	
By: BELLA STELLA)	
For the Trademark: BELLA STELLA)	
<hr style="border: 1px solid black;"/>)	Opposition No.
)	
COLOR IMAGE APPAREL, INC.,)	<hr style="border: 1px solid black;"/>
a California corporation,)	
)	
Opposer,)	
v.)	
)	
BELLA STELLA, an Oregon limited liability company,)	
Applicant.)	
<hr style="border: 1px solid black;"/>)	
)	

NOTICE OF OPPOSITION

Opposer, Color Image Apparel, Inc., a California corporation having a place of business at 6670 Flotilla Street, Commerce, California 90040 (hereinafter "Opposer") believes that it will be damaged by registration of the mark BELLA STELLA shown in Application Serial No. 77/794,574, as published in the Official Gazette on January 19, 2010 and hereby opposes the same.

As grounds for the Opposition, it is alleged that:

1. Opposer is the owner of U.S. Trademark Registration No. 2,668,441, for the mark ~~BELLA and Design for "garments, namely cotton T-shirts and tops"~~ in Class 25, with a date of first use since at least January 1, 2000. Said registration is valid and subsisting. A copy of the trademark registration attached hereto as Exhibit A.

2. Opposer is the owner of U.S. Trademark Registration No. 3,519,794, for the mark BELLA for "women's clothing, namely, tee shirts, short sleeve shirts, long sleeve shirts, tank tops, fleece tops, fleece pants, shirts, pants, yoga pants, capri pants, shorts, bras, underwear, camisoles,

sweatshirts, polo shirts, and jackets” in Class 25, with a date of first use since at least January 1, 2000. Said registration is valid and subsisting. A copy of the trademark registration attached hereto as Exhibit B.

3. Opposer, since at least January 1, 2000, has also been, and is now, continuously using and advertising said marks in interstate commerce in connection with the promotion and sales of its goods, and the aforesaid marks of Opposer are valid, subsisting and owned by Opposer and are recognized by a significant portion of the relevant public as identifying the products of Opposer. Therefore, the marks and goodwill associated therewith are valuable assets of Opposer.

4. Applicant Bella Stella (“Applicant”) applied to register the mark BELLA STELLA, Serial No. 77/794,574 on July 31, 2009 as an intent to use mark in International Class 35 for computerized on-line retail store services in the field of children's clothing; retail clothing boutiques; retail consignment stores featuring childrens' clothing; and retail consignment stores in the field of children's clothing.

5. The registered marks of Opposer are evidence of Opposer’s exclusive right to use the marks in commerce on the goods specified in the registrations. Applicant’s mark BELLA STELLA, Serial No. 77/794,574, is confusingly similar to the marks owned by Opposer, therefore, denying to Opposer the benefits of its marks in excluding confusingly similar uses. In view of the fact that the respective marks are confusingly similar and the goods and/or services provided by the respective parties are virtually identical, it is alleged that Applicant’s mark so resembles Opposer’s registered marks as to be likely to cause confusion, or to cause mistake, or to deceive.

6. ~~The services purported to be provided by Applicant includes services which third~~ parties may assume emanated from Opposer, specifically, “computerized on-line retail store services in the field of children's clothing; retail clothing boutiques; retail consignment stores featuring childrens' clothing; and retail consignment stores in the field of children's clothing” and thus there is a substantial likelihood of confusion for the relevant portion of the public who are exposed both to Applicant’s services and the goods offered for sale therewith, and those of Opposer. Applicant’s mark, as the newcomer, will be seen as a deliberate variation of Opposer’s marks intended to

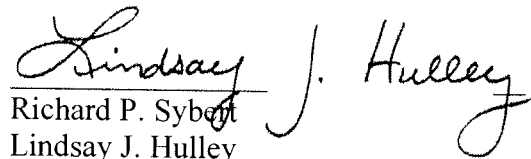
indicate a product line extension or a spin off – all from the same source and thus is further likely to cause confusion, mistake, or deception.

WHEREFORE, Opposer prays that Application Serial No. 77/794,574, be refused in International Class 35 and denied registration as Opposer believes and avers that it will be damaged by the registration of Serial No. 77/794,574, filed July 31, 2009, and requests that Applicant be required to answer the allegations of this Notice of Opposition and that the opposition to the said application be sustained.

This Notice of Opposition is being submitted electronically. The required fee is authorized to be charged against the Deposit Account No. 501990 of the Attorney for Opposer.

Dated: May 18, 2010

Respectfully submitted,

A handwritten signature in cursive script, reading "Lindsay J. Hulley". The signature is written in dark ink and is positioned above the printed name and title.

Richard P. Sybert
Lindsay J. Hulley
Attorneys for Opposer
COLOR IMAGE APPAREL, INC.

Certificate of Mailing by "First Class U.S. Mail"

I hereby certify that a copy of this NOTICE OF OPPOSITION is being served by First Class U.S. Mail service to Addressee on May 18, 2010, as follows:

Lauren Ackerman
Bella Stella
2635 NE Broadway St.
Portland, OR 97232-1891

Date of Mailing: May 18, 2010

Printed Name: Monica L. Mims

Signature:

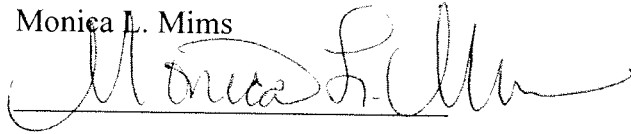
A handwritten signature in cursive script, appearing to read "Monica L. Mims", written over a horizontal line.

EXHIBIT “A”

7197794



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

August 13, 2009

**THE ATTACHED U.S. TRADEMARK REGISTRATION 2,668,441 IS
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE.**

REGISTERED FOR A TERM OF 10 YEARS FROM *December 31, 2002*

SECTION 8 & 15

SAID RECORDS SHOW TITLE TO BE IN:

Registrant

By Authority of the

**Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office**

**P. SWAIN
Certifying Officer**



Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 2,668,441

Registered Dec. 31, 2002

**TRADEMARK
PRINCIPAL REGISTER**

kella

**COLOR IMAGE APPAREL, INC. (CALIFORNIA
CORPORATION)
601 WALSH AVENUE
SANTA CLARA, CA 95050**

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

SER. NO. 76-308,113, FILED 9-4-2001.

**FOR: GARMENTS, NAMELY COTTON T-SHIRTS
AND TOPS, IN CLASS 25 (U.S. CLS. 22 AND 39).**

**AMOS T. MATTHEWS, JR., EXAMINING ATTOR-
NEY**

EXHIBIT “B”

7197794



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

August 13, 2009

THE ATTACHED U.S. TRADEMARK REGISTRATION 3,519,794 IS
CERTIFIED TO BE A TRUE COPY OF THE REGISTRATION ISSUED BY
THE UNITED STATES PATENT AND TRADEMARK OFFICE WHICH
REGISTRATION IS IN FULL FORCE AND EFFECT.

REGISTERED FOR A TERM OF 10 YEARS FROM *October 21, 2008*
SAID RECORDS SHOW TITLE TO BE IN: *Registrant*

By Authority of the

Under Secretary of Commerce for Intellectual Property
and Director of the United States Patent and Trademark Office

P. SWAIN

Certifying Officer



Int. Cl.: 25

Prior U.S. Cls.: 22 and 39

United States Patent and Trademark Office

Reg. No. 3,519,794

Registered Oct. 21, 2008

**TRADEMARK
PRINCIPAL REGISTER**

BELLA

COLOR IMAGE APPAREL, INC. (CALIFORNIA CORPORATION)
6670 FLOTILLA STREET
COMMERCE, CA 90040

FOR: WOMEN'S CLOTHING, NAMELY, TEE SHIRTS, SHORT SLEEVE SHIRTS, LONG SLEEVE SHIRTS, TANK TOPS, FLEECE TOPS, FLEECE PANTS, SHIRTS, PANTS, YOGA PANTS, CAPRI PANTS, SHORTS, BRAS, UNDERWEAR, CAMISOLES, SWEATSHIRTS, POLO SHIRTS, AND JACKETS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-1-2000; IN COMMERCE 1-1-2000.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 3,158,111, 3,293,659 AND OTHERS.

THE ENGLISH TRANSLATION OF THE WORD "BELLA" IN THE MARK IS "BEAUTIFUL".

SER. NO. 77-423,400, FILED 3-17-2008.

LYDIA BELZER, EXAMINING ATTORNEY